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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,855	09/29/2003	Joseph D. Krawczyk	46000-0001	3712
3490	7590	02/27/2006	EXAMINER FISCHETTI, JOSEPH A	
DOUGLAS T. JOHNSON MILLER & MARTIN 1000 VOLUNTEER BUILDING 832 GEORGIA AVENUE CHATTANOOGA, TN 37402-2289			ART UNIT 3627	PAPER NUMBER

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/673,855

Applicant(s)

KRAWCZYK ET AL.

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 12-17, 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

The Examiner has presented evidence of separate utility in the restriction dated 2/9/05 of the device 1-11, 18-20 an amusement ride car locking device. As such, the restriction on its face satisfied the requirements of the law at its issuance. Applicant is asked in his next response to indicate claims 12-17, 22,23 as being withdrawn in the status identifiers in order to avoid a defective notice.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11,18-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each base claim, it is not clear whether each side wall has only one of the plurality of track sections on it, or whether each side holds more than one section?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5,7-9,18,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of DiBartolomeo.

Armentrout discloses a method of positioning and securing product transport carts having a lock fitting (12) into a transport vehicle (truck or trailer col. 1 line 30) supported for travel on wheels and having a floor, side walls, a front end and an openable rear end (part of all trailers or trucks), to provide laterally spaced rows leaving an aisle between the opposing side walls (the connection of the carts to the side walls obviously leads to the formation of a space/aisle between the two side walls); the side walls having fore to aft spaced channel shaped track sections (10), said method comprising the steps of:

a. moving a first cart (1) to a position in which the lock fitting is connected to a first track section (fig. 2 shows cart 1 in position with lock fitting 12 connected to the first track section). Regarding the newly added limitation of a plurality of fore to aft spaced channel shaped tracks sections, it is deemed inherent to Armentrout that the wall of the truck opposite that of shown adjacent numeral 10 would have a similar channel 10 such that two such carts could be received in a side by side manner. Notwithstanding, DiBartolomeo does teach the side by side placement of carts in a truck with an aisle separating same and using the wall immediately adjacent each cart to secure the cart. The motivation for such a modification would be the maximization of space in a truck. However, Armentrout fails to disclose interlocking the first cart with a second cart intermediate the side wall and the aisle, thereby connecting the first and second carts together with at least the first cart connected to the side wall at the first track section.

However, DiBartolomeo discloses connecting carts to one another in as train-like manner which would place the interlocking between carts somewhere intermediate the side wall and the aisle 120. It would be obvious to modify the method of Armentrout to connect the carts 1,1' to each other in a train-like manner e.g. intermediate the side wall and the aisle the motivation for this would be the additional stability offered by a train-like connection between carts. Re claim 18, DiBartolomeo shows carts arranged to create bays 104 along each side wall of the vehicle.

Re claim 2: the step of detaching one cart from the other to remove one singularly is an old and obvious step.

Re claim 3: the powered lifting device 114 is read as a lift gate.

Re claim 4: posts with lead lines 4,4 project upwards and support the lock fittings 7/11.

Re claim 5: it is obvious to effect a train-like connection each cart needs to have at least one linkage to accomplish the train connection and the lock fitting 12 part of each cart 1 makes two.

Re claims 7/8: the product support is read as the floor supported by lower frame 2 and is supported by rollers 3,3; side walls 5,5 (lateral side opposite the opening) and a rear wall adjacent side wall, the locking mechanism is connected to one of the side walls and rear wall (see Fig 2 showing mounting plate 7 to the side wall).

Re claim 9: the second lock fitting is connected to the rear wall.

Re claim 20: col. 1 lines 20,21 of DiBartolomeo the carts are filled with parts or product stacks before loading and official notice is taken to the old and notorious practice of unloading a part of a cart while still on a truck, see old bottled milk delivery systems.

Claims 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of DiBartolomeo as set forth above and further in view of Nordstrom et al.

The above combination fails to disclose a second lock fitting which is also configured to connect the second cart to a track section. But, Nordstrom discloses a second lock fitting 13 which is also configured to connect the second cart to a track section 20 thereby securing the second cart to the side wall (it is noted that the longitudinally aligned openings in the connector 13 are read as the first fittings). It would be obvious to modify the method of Armentrout to include a connector on each of the carts which connects end to end to a cart and to the side wall track 20 as taught by Nordstrom et al., the motivation being the desirable effects of multiple point hold down connection.

Claims 10,11,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of DiBartolomeo as set forth above and further in view of Shuert.

The above combination fails to disclose carts with at least one pallet having a dependent downwardly extending disc and providing at least one hand truck having a nose plate with disc-embracing arms and piloting it into a load receiving position under one of said pallets on the at least one cart; and moving said hand truck and nose plate to remove said pallet and product stack from said cart. However, Shuert does disclose such steps in that it shows a disc 40 (equivalent shape) and a hand truck plate disc embracing arms 50 which is piloted into a receiving position to remove the pallet. It

would be obvious to modify the above combination to include the pallet removing step of Shuert the motivation being the further ease of removing/loading of product from the truck.

#### FINAL ARGUMENTS

Applicant's arguments filed in his previous response have been fully considered but they are not persuasive. The newly added language calls into question what is being claimed, namely, in each base claim, it is not clear whether each side wall has only one of the plurality of track sections on it, or whether each side holds more than one section?. Second, regarding the newly added limitation of a plurality of fore to aft spaced channel shaped tracks sections, it is deemed inherent to Armentrout that the wall of the truck opposite that of shown adjacent numeral 10 would have a similar channel 10 such that two such carts could be received in a side by side manner. Notwithstanding, DiBartolomeo does teach the side by side placement of carts in a truck with an aisle separating same and using the wall immediately adjacent each cart to secure the cart. The motivation for such a modification would be the maximization of space in a truck.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

JOSEPH A. FISCHETTI  
PRIMARY EXAMINER  


Joseph A. Fischetti  
Primary Examiner  
Art Unit 3627